

AGENDA ITEM VI A

PROPOSED ACADEMIC/RESEARCH CENTERS/INSTITUTES

REQUEST FOR FULL APPROVAL

LOUISIANA STATE UNIVERSITY PAUL M. HEBERT LAW CENTER

GEORGE AND JEAN PUGH INSTITUTE FOR JUSTICE

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BACKGROUND INFORMATION

At its meeting of April 4, 2003, the Board of Regents acted as follows:

One-year conditional approval is granted for the George and Jean Pugh Institute for Justice at the Paul H. Hebert Law Center of Louisiana State University, effective immediately. As required by Board of Regents Academic Affairs Guidelines: Proposed New Centers, Institutes, and Other Academic/Research Units, the Law Center shall submit to the Commissioner of Higher Education a proposal for full approval of the Institute by February 1, 2004. If a proposal is not forthcoming by this date, the Board of Regents shall automatically reexamine the need for this Institute.

Subsequently, on March 25, 2004, the Regents acted as follows:

An additional one-year, conditional approval is granted for the George and Jean Pugh Institute for Justice at the Paul M. Hebert Law Center of Louisiana State University, effective immediately. As required by Board of Regents Academic Affairs Guidelines: Proposed New Centers, Institutes, and Other Academic/Research Units, the Law Center shall submit to the Commissioner of Higher Education a proposal for full approval of the Institute by April 1, 2005. If a proposal is not forthcoming by this date, the Board of Regents shall automatically reexamine the need for this Institute.

The staff summary noted that any proposal for full approval should, as is standard, address issues that are not included in the initial request for one-year conditional approval, such as faculty, facilities and funding for the proposed period of operation.

STAFF ANALYSIS

1. Description/Mission

The proposal states the following:

The mission of the LSU Law School, in addition to its primary role in providing professional education to those aspiring to become members of the bench and bar, has been to foster research and to encourage and support efforts at law reform. The Pugh Institute will provide a stimulus for research efforts and for study of means to improve the administration of justice. The law school is home to the Louisiana Law Institute, which is the official law reform body of the state of Louisiana. Although located at LSU Law School, the Law Institute is a part of the legislative branch of Louisiana government. The Pugh Institute follows the tradition, like the Law Institute, of providing faculty with opportunities to study theoretical means of improving our law - and implementing those idea and theories with specific proposed legislation. The Pugh Institute provides encouragement for research and sponsored conferences which will lead to law journal articles - and hopefully specific proposals for reform.

Sponsoring research leading to the publication of law journal articles and sponsoring conferences featuring leading scholars from other nations with backgrounds in various disciplines associated with the administration of criminal justice creates intellectually synergetic activity which is a meaningful way to encourage scholars and professionals of the bench and bar - as well as members of the legislative branch - to consider new and improved procedures for the just and expeditious disposition of litigation. Such activities have been a vital part of the academic life of the Louisiana State University Law School.

Thus, because the Pugh Institute's activities are integral to the accomplishment of the role, scope, and mission of the Law Center, the Law Center has made a long term commitment to support those activities. Therefore, the Law Center is requesting approval for a term of five years - and plans to seek renewal of that term on an indefinite basis.

2. Recent and Future Activities

The proposal notes:

Since Fall 2003, the Pugh Institute has been engaged in the following activities:

*(1) Conference on the Theory of the Criminal Law's Special Part. This two-day conference, held on March 5-6, 2004, was co-sponsored by the Pugh Institute and the LSU Law Center. The conference brought together a group of leading scholars in criminal law theory from throughout the United States, Great Britain, and Argentina to discuss the Theory of the Criminal Law's Special Part, the dimension of criminal law that identifies and defines the specific offenses that are subject to criminal sanctions. The conference was organized by Professor Green and Professor Antony Duff, one of Britain's leading scholars of the philosophy of law. Papers originally presented at the conference are forthcoming in a volume entitled *Defining Crimes: Essays on the Criminal Law's Special Part*, to be published by Oxford University Press. Two of the papers, along with commentaries, will also appear in a forthcoming issue of the *Louisiana Law Review*.*

(2) Law School Pro Bono Initiative. *The Pugh Institute has been instrumental in conceiving of, and helping to plan, an initiative that will allow LSU law students greater opportunities to be involved in a wide range of pro bono activities in the Baton Rouge area. On September 3, 2004, members of the Institute participated in a pro bono “roundtable,” attended by LSU law students and lawyers active in pro bono activities throughout the state, to talk about the establishment of such a program. The day-to-day activities of the pro bono initiative are now being handled by the Law School’s career services office, with ongoing consultation with Pugh Institute members.*

(3) Distribution of Fundraising Brochure. *The Institute published an attractive informational brochure describing its activities and goals, copies of which were mailed to virtually all of the thousands of alumni who were students at LSU Law School during George Pugh’s tenure here. Also included in the mailing were materials soliciting contributions. As a result of this solicitation, the Institute received approximately \$35,000 in contributions.*

(4) Launch of Pugh Institute Website: *The contents of the above-mentioned fundraising brochure, along with additional materials and links, now appear on a recently-launched Pugh Institute website, which in turn is linked to the LSU Law Center website. The website’s address is: <http://host.law.lsu.edu/pughinstitute/index.htm>*

(5) Completion of Louisiana Law Review Symposium on the Doctrine of Harmless Error.

The Harmless Error Doctrine allows appellate judges who find that the court below made an error at trial to determine that such errors were “harmless” and thereby affirm the lower court’s holding. This symposium, sponsored by the Pugh Institute, examined the advantages and disadvantages of the harmless error doctrine, particularly as it has developed in the Louisiana criminal courts. This symposium was published in two parts. Part I appeared in the Summer 1999 issue of Volume 59, and featured articles by David McCord and Addison Goff. Part II appeared earlier this year, and contained articles by James Boren and Michael Fisher and Alfred Paul LeBlanc, Jr. The entire symposium is available on the Pugh Institute’s web site:

<http://host.law.lsu.edu/pughinstitute/harmlesserror.htm>

(6) Publishing the Collected Works of Judge Albert Tate, Jr. *The Pugh Institute is continuing to prepare for publication a collection of the extra-judicial writings of Judge Albert Tate, Jr., one of the major figures in the history of Louisiana law. The volume will explore themes such as the proper role of a judge, the methodology of legal interpretation in a “mixed” jurisdiction, the technique of appellate advocacy, and the reemergence of Louisiana’s civilian tradition in the law of torts and obligations. The book will also contain an introduction by U.S. Fifth Circuit Judge James Dennis reminiscing on Al Tate the man. The contents of the book have now been assembled and proofread, and the manuscript has been sent out for “bid.” We are hopeful that the book will be available for distribution by late Spring 2005.*

(7) LSU Law Center Symposium and Innocence Project Externship. The Pugh Institute has been the driving force behind an innovative course at the LSU Law Center on Punishment, Post-Conviction Procedures, and Wrongful Convictions. Team taught by U.S. District Court Judge Ginger Berrigan, criminal defense attorney Jim Boren, and Professor Green, the course exposes students to the question of why and how we punish, why and how the system sometimes results in the conviction of innocent persons, and what can be done to rectify such miscarriages of justice. The course is complemented by a popular externship program, which allows students to work as externs with the Innocence Project--New Orleans, the Louisiana chapter of a nationwide effort to investigate claims of prisoners who claim to have been wrongly convicted, and to free those who can prove their actual innocence.

(8) Eyewitness Symposium. Judge Ginger Berrigan is currently taking the lead in planning a one-day symposium, to be co-sponsored by the Pugh Institute and the Law Center, that will explore issues raised by the use and possible misuse of eyewitness testimony. Professor Barry Scheck, Co-Director of the famed Innocence Project at Cardozo Law School, has agreed to moderate and help plan the day's program. Other participants will include lawyers, academics, and government officials from throughout Louisiana and the region. The symposium is currently planned for Spring 2005.

(9) The Institute also has tentative plans to host an international conference on the subject of "criminalization" in Spring 2006.

3. Faculty

From the proposal:

Professor Green will serve as Director. He will perform this function in addition to his normal teaching and academic duties (such as serving as Chair of the Law Center's Curriculum Committee). The Pugh Institute's research goals are consistent with his own research agenda. His vitae is attached. (This item is on file in the Office of Academic Affairs.)

No other member of the law school faculty has an official or continuing connection to the Pugh Institute. Others may from time to time be invited to participate in conferences and other activities sponsored by the Pugh Institute. In addition to law school faculty, the Institute conferences and research initiatives will involve faculty of other prestigious academic institutions such as the participants in the International Conference on Criminal Law. Other members of the profession, lawyers and judges, are involved in research projects and preparation of conferences. For example, Judge Berrigan, Chief Judge of the United States District Court for the Eastern District of Louisiana (and adjunct professor of law at LSU), and Mr. James Boren, an adjunct professor and prominent criminal defense lawyer are working with Dr. Sean Lane of the LSU Department of Psychology on a study examining the factors which affect the accuracy of witness perception of events and memory of those events.

4. Facilities and Equipment

The proposal provides the following regarding facilities and equipment:

The Law Center classrooms and conference rooms are perfectly acceptable for use in Pugh Institute conferences. In addition, the other facilities on the LSU campus in Baton Rouge provide such hotel and food service as may be necessary for the meetings and conferences. The law library and other research facilities available to all members of the law school faculty are completely adequate to support Pugh Institute research activities. No new facilities or equipment are needed.

5. Administration

Administrative plans for the Center are described in the proposal as follows:

The Pugh Institute will be guided by a Board of Directors who, with the approval of and in consultation with the Chancellor of the Law School, establish the overall policy of and determine appropriate projects to be pursued by the Institute. The Board consists of not less than five nor more than nine members. The initial appointments were made by Justice Dennis and replacements are to be elected by majority vote of the remaining members of the Board. The Director is appointed by the Chancellor and must be a full time member of the LSU Law School faculty. The Director will be responsible for coordination and supervision of the projects undertaken by the Institute. The Law Center will be able to provide clerical assistance and some limited financial assistance for necessary research

5. Budget

Appended to this document is a copy of the five-year budget plan for the Center. (See Appendix.)

The following budget explanation is given in the proposal:

- * Following his retirement from the Supreme Court of Louisiana and his appointment to the United States Court of Appeals for the Fifth Circuit, Justice James Dennis donated \$100,000.00 to the LSU Foundation to be available to endow the Pugh Institute. At the time of the donation, efforts to raise additional private funds were anticipated. Some additional funds have been secured and a major fundraising effort is envisioned which will hopefully generate additional funds to support Law Center activities, including those of the Pugh Institute.
- * The LSU Foundation has approximately \$192,759 in the endowment account of the Pugh Institute. Accumulated endowment earnings of \$16,468 and non-endowed support funds of \$1,332 are available for support of Institute

projects. In addition, the Chancellor can commit \$5,000 in Law Center funds to support the publication of the Justice Tate papers and has agreed to provide Professor Green with a Level A research grant of \$18,000 for the summer of 2005. During that grant period, Professor Green will conduct research in an area of criminal law which will result in the preparation and publication of a major scholarly article. To supplement the \$17,800 of expendable revenue in the Foundation Accounts, Justice Dennis, Judge Berrigan and Mr. James Boren have pledged an additional \$7,000 to support the publication of the Justice Tate papers. Thus, the available resources for conferences on criminal law and publication of the Justice Tate papers are as follows: the Foundation (\$17,800) and the pledges from Justice Dennis, Judge Berrigan and Mr. Boren (\$7000). Total: \$24,800.

- * Cost estimates are \$5,000 for the Spring 2005 Symposium on Eyewitness Identification (at LSU Law Center) and \$16,000 for Publication of the Justice Tate Papers. Total: \$ 21,000.

The estimated costs are well within the available resources. Some cost figures regarding the Spring, 2005 symposium (e.g., travel expenses for the speakers) are difficult to estimate at this time. However, the projected costs will not exceed the available resources.

- * In recognition of the importance of the Pugh Institute to the Law Center in carrying out its role, scope, and mission, and because the Director's academic and scholarly research agenda is consistent with the Institute's primary purpose, the Chancellor has committed the Law Center to funding the Director's summer research stipend (\$18,000 per year as shown in the attached budget) on an annual and continuing basis. However, the Pugh Institute must otherwise be able to accomplish its mission and goals with funds that are generated by revenue produced from the initial gift of Justice Dennis, as supplemented by such additional revenues as may be provided by the generosity of donors, either to the Foundation endowment or to the completion of certain projects (such as the pledges of the additional \$7,000 made by Justice Dennis, Judge Berrigan, and Mr. Boren to support publication of the Justice Tate papers).

STAFF SUMMARY

The George and Jean Pugh Institute for Justice appears to be providing valuable service to both the LSU Law Center and the State of Louisiana. All requirements for full approval have been met. The staff notes that this Center is an excellent example of a non-technically oriented research unit which operates both effectively and efficiently on a somewhat limited budget.

STAFF RECOMMENDATION

The staff recommends that the Academic and Student Affairs Committee grant full approval for the George and Jean Pugh Institute for Justice at the Louisiana State University Paul G. Hebert Law Center for a period of five years from this date.

APPENDIX

PROPOSED FIVE-YEAR CENTER BUDGET

